



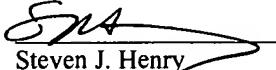
DOCKET NO.: M0274.70040US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dipan Patel
Serial No.: 10/561,428
Confirmation No.: 6357
Filed: March 26, 2007
For: METHOD AND SYSTEM FOR SELECTIVELY
DISTRIBUTING DATA TO A SET OF NETWORK
DEVICES
Examiner: --
Art Unit: 2182

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 5th day of February, 2009.


Steven J. Henry
Reg. No. 27,900

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

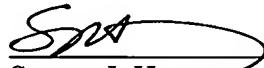
RESPONSE TO RESTRICTION REQUIREMENT

Madam:

In response to the Restriction Requirement mailed December 9, 2008, Applicant provisionally elects the claims of Group I, with traverse. In traversal, Applicant disagrees that the Office has justified treating the Group I and Group III claims as being directed to independent and distinct inventions. The Office Action does not evaluate independence at all and only cites as a basis for distinctness that the subject matter of those groups of claims is separately classified in the art and that separate searches are required. While separate searches may indicate a practical burden on the Examiner, weighing in favor of restriction, the Examiner must first establish that the subject matter of the claims is both independent and distinct. The communication does not do so and relies on distinctness alone. This is improper as 35 U.S.C. §121 requires both independence and distinctness before a restriction is justified.

Moreover, while the primary classification of the Group I and Group III claims may be different, it appears to Applicant that a search only in subclass 255 for Group I or in 252 for Group III, respectively, would be deficient, and that both subclasses should be searched for both groups of claims. Accordingly, Applicant disagrees that a search burden requires restriction as between the Group I and Group III claims. Thus, Applicant does not concede that the Office has met its burden in imposing the restriction requirement, at least as between the Group I and Group III claims. Reconsideration is therefore requested.

Respectfully submitted,



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